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VIA ECF

Hon. James L. Cott
United States Magistrate Judge
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, NY 10007

Re: US Airways, Inc. v. Sabre Holdings Corp., et al., No. 1:11-cv-02725-LGS
Sabre's Request for a Sur-Reply or, in the Alternative, Oral Argument

Dear Judge Cott:

We write to oppose Sabre's request, ECF 1271, and to correct the record. US Airways did not raise a "new argument" in its reply by citing to *Stochastic Decisions, Inc. v. DiDomenico*, 995 F.2d 1158 (2d Cir. 1993). US Airways did so to rebut Sabre's Opposition argument that "if USFL had been presented with the question here and had the benefit of *Farrar's* guidance, the outcome . . . would surely have been different." ECF 1268, at 19. As US Airways explained in its opening brief, the holding in *U.S. Football League v. Nat'l Football League*, 887 F.2d 408, 411 (2d Cir. 1989) ("*USFL*") that "the award of nominal damages in antitrust cases . . . does not affect [a plaintiff's] right to attorney's fees," remains the law of this Circuit and applies to this case. See ECF 1267, at 1-2, 8-14. In speculating that the Second Circuit would not have made such a holding after *Farrar*, Sabre failed to acknowledge *Stochastic Decisions*, which explained that because "*Farrar* construed" a different, discretionary fee statute, it "is of limited applicability" to statutes that mandate an award of attorney fees." 995 F.2d at 1168 (quoting *USFL*, 887 F.2d at 412). There is no dispute that the Clayton Act is a mandatory fee statute and no additional briefing is necessary for the Court to decide whether US Airways is entitled to fees under the rule set forth in *USFL*.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Andrew J. Frackman'.

Andrew J. Frackman
of O'MELVENY & MYERS LLP
for US Airways, Inc. for American Airlines, Inc. as
Successor and Real Party in Interest

cc: Counsel for Sabre (via ECF)